

13483. Adulteration of evaporated apples. U. S. v. 125 Boxes of Evaporated Apples. Decree entered, permitting release of product under bond. (F. & D. No. 19370. I. S. No. 8773-v. S. No. C-4562.)

On or about December 10, 1924, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 125 boxes of evaporated apples, at Memphis, Tenn., alleging that the article had been shipped by the Lincoln Fruit Co., from Lincoln, Ark., on or about September 30, 1924, and transported from the State of Arkansas into the State of Tennessee, and charging adulteration in violation of the food and drugs act. The article was labeled in part: "Evaporated Apples Packed by Lincoln Fruit Company, Lincoln, Arkansas."

Adulteration of the article was alleged in the libel for the reason that an excessive amount of water had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality and strength and had been substituted wholly or in part for the said article.

On March 3, 1925, the Lincoln Fruit Co., Lincoln, Ark., claimant, having admitted the allegations of the libel, and having prayed release of the product under bond for the purpose of re-treating and drying down to the proper moisture content, an order of the court was entered, permitting the release of the said product upon payment of the costs of the proceedings and the execution of a bond in the sum of \$333, conditioned as required by law.

C. F. MARVIN, *Acting Secretary of Agriculture.*

13484. Adulteration and misbranding of canned tomatoes. U. S. v. 438 Cases of Canned Tomatoes. Product ordered released under bond. (F. & D. No. 19472. I. S. No. 15516-v. S. No. E-5097.)

On January 7, 1925, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 438 cases of canned tomatoes, at Altoona, Pa., alleging that the article had been shipped by C. A. Lee, from McDaniel, Md., October 30, 1924, and transported from the State of Maryland into the State of Pennsylvania, and charging adulteration and misbranding in violation of the food and drugs act. A portion of the article was labeled in part: "Soughtafter Brand" (or "Yum-Yum Brand") "Tomatoes." The remainder of the said article was labeled in part: "Rich Neck Brand Tomatoes * * * Packed By Carroll & Warner McDaniel, Md."

Adulteration of the article was alleged in the libel for the reason that water had been mixed and packed therewith so as to reduce, lower, or injuriously affect its quality or strength and had been substituted wholly or in part for the said article.

Misbranding was alleged for the reason that the statement "Tomatoes" was false and misleading and deceived and misled the purchaser, and for the further reason that the article was offered for sale under the distinctive name of another article.

On February 14, 1925, the Shaffer Stores Co., Altoona, Pa., having appeared as claimant for the property and having prayed leave to file a bond for its release, an order of the court was entered, providing that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$1,300, conditioned in part that it not be disposed of in violation of law and that a representative of this department examine the portion of the product set aside as good before its distribution.

C. F. MARVIN, *Acting Secretary of Agriculture.*

13485. Adulteration and misbranding of canned oysters. U. S. v. 325 Cases of Oysters. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 20011. I. S. Nos. 23886-v, 23887-v. S. No. C-4709.)

On April 17, 1925, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 325 cases of oysters, remaining in the original unbroken packages at Topeka, Kans., alleging that the article had been shipped by the J. E. Eyman Co., from Jackson, Miss., on or about March 10, 1925, and transported from the State of Mississippi into the State of Kansas, and charging adulteration and misbranding in violation of the food and drugs act as

amended. The article was labeled in part: "Sunburst Brand Oysters Contents 10 oz." (or "Contents 5 oz.").

Adulteration of the article was alleged in the libel for the reason that excessive brine had been mixed and packed therewith so as to injure, lower, and affect its quality, purity, and strength.

Misbranding was alleged in substance for the reason that the product was misleading and deceptive and calculated to induce the purchaser to believe it to be pure, whereas it was not but was adulterated as aforesaid. Misbranding was alleged for the further reason that the statements "10 oz." or "5 oz." as the case might be, borne on the labels, were false and misleading, and for the further reason that it was [food] in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On June 8, 1925, the Theodore Poehler Mercantile Co., Topeka, Kans., having appeared as claimant for the property and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$500, in conformity with section 10 of the act, conditioned in part that it be relabeled to show its true contents.

C. F. MARVIN, *Acting Secretary of Agriculture.*

13486. Adulteration of tomato paste. U. S. v. 530 Cans of Tomato Paste. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 19985. I. S. No. 14379-v. S. No. E-5283.)

On April 13, 1925, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 530 cans of tomato paste, consigned by Wm. Silver & Co. (Inc.), Georgetown, Del., remaining in the original unbroken packages at Cambridge, Mass., alleging that the article had been shipped from Georgetown, Del., in part November 3, 1924, and in part November 14, 1924, and transported from the State of Delaware into the State of Massachusetts, and charging adulteration in violation of the food and drugs act. The article was labeled in part "Venetian Queen Brand Tomato Paste * * * Prepared By The Townsend Co. Georgetown, Del."

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance.

On June 29, 1925, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*

13487. Adulteration and misbranding of canned tomatoes. U. S. v. Andrew J. Lewis. Plea of guilty. Fine, \$100. (F. & D. No. 19338. I. S. Nos. 9214-v, 19348-v.)

On March 30, 1925, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Andrew J. Lewis, Walnut Point, Va., alleging shipment by said defendant, in violation of the food and drugs act, in two consignments, namely, on or about August 20 and October 5, 1923, respectively, from the State of Virginia into the State of Ohio, of quantities of canned tomatoes which were adulterated and misbranded. The article was labeled in part: "(Can) Potomac Brand Hand Packed Tomatoes * * * Our Extra Quality Packed By A. J. Lewis Walnut Point, Va."

Examination of the article by the Bureau of Chemistry of this department showed that it contained added water, puree, pulp and juice from skins and cores.

Adulteration of the article was alleged in the information for the reason that substances, to wit, water, puree, pulp and juice from skins and cores, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and strength and had been substituted in part for hand-packed extra quality tomatoes, which the said article purported to be.

Misbranding was alleged for the reason that the statements "Hand Packed Tomatoes" and "Our Extra Quality," together with the design of a fresh, ripe tomato, borne on the labels, were false and misleading, in that they represented that the article consisted of selected tomatoes of extra quality,